

ORDINANCE NO. 03-254

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LOS ALTOS AMENDING TITLE 10 (PUBLIC SERVICES) OF
THE LOS ALTOS MUNICIPAL CODE BY ADDING CHAPTER
10.16 RELATING TO STORMWATER POLLUTION
PREVENTION MEASURES

The City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. Legislative Findings. The City Council finds and declares as follows:

A. In order to protect water quality, the California Regional Water Quality Control Board has modified the National Pollutant Discharge Elimination System (NPDES) permit issued to the Santa Clara Valley Urban Runoff Pollution Prevention Program regulating the discharge of stormwater runoff to local creeks by Santa Clara Valley municipalities. The new permit provisions mandate that the municipalities develop and enforce regulations that require owners/developers of applicable projects to install and maintain permanent stormwater quality protection measures in accordance with specific design criteria.

B. Effective October 15, 2003, the regulations will apply to projects that create or replace one acre or more of impervious surface. Permit applications for private projects deemed complete prior to October 15, 2003 and public projects for which funding has been committed and for which construction is scheduled to begin by October 15, 2003 will not be subject to the new regulations.

C. The City of Los Altos (as well as all other cities in the Santa Clara Valley) will be adopting new stormwater regulations that apply to land development projects that create or replace one acre or more of impervious surface.

D. The City of Los Altos, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder and the provisions of the Clean Water Act as amended and regulations and guidelines adopted thereunder, shall comply with the California Regional Water Quality Control Board's Provisions C.3. New and Redevelopment Performance Standards of Order No. 01-119.

SECTION 2. Amendment of Code. Chapter 10.16 (Stormwater Pollution Prevention) is hereby added to Title 10 (Public Services) of the Los Altos Municipal Code to read as follows:

“Chapter 10.16 Stormwater Pollution Prevention Measures

10.16.010 **Purposes and Intent.** This chapter is necessary to protect the health and safety of the residents of the Los Altos and the surrounding region from water quality degradation caused by stormwater run off. This chapter has been enacted and shall be

implemented in a manner consistent with the requirements of the California Regional Water Quality Control Board applicable to the City of Los Altos. This chapter shall be supplemental to the requirements of Chapter 10.08 (Sewer System Protection Regulations) with respect to stormwater.

10.16.020 **Definitions.** The following words and phrases whenever used in this chapter, shall be as set forth below:

- (a) Development Project shall mean any private or public project that results in the creation of one acre (43,560 square feet) or more of impervious surface, including but not limited to parking lots, roof area, streets, and sidewalks. Development project shall include the issuance of a permit for building, construction, reconstruction, subdivisions or occupancy, but not a permit to operate.
- (b) Impervious Surface shall mean land that has been modified by the action of the persons to reduce the land's natural ability to absorb and hold rainfall. This includes any hard surface area which either prevents or retards the entry of water into the soil material as it entered under natural conditions pre-existent to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions pre-existent to development. Impervious surfaces include, but are not limited to, rooftops, pavement, sidewalks, walkways, patios, driveways, and parking lots where such surfaces are not constructed with pervious materials and/or are not designed to have zero stormwater discharge.
- (c) Permanent Stormwater Pollution Prevention Measures (PSPPM) shall mean any combination of source control measures, site design measures, and/or post-construction stormwater treatment measures that reduce stormwater pollution to the maximum extent practicable as required by Order No. 01-119 in the NPDES Permit No. CAS029718 issued by the California Regional Water Quality Control Board, San Francisco Bay Region, as it may be amended from time to time. The design and implementation of the PSPPM must be in accordance with the guidelines and technical specification approved by the City or other City-approved authority and the requirements of Order No. 01-119.
- (d) Significant Redevelopment Project shall mean any private or public project on a previously developed site that results in addition or replacement of one acre (43,560 square feet) or more of impervious surface, including but not limited to roof area, parking lots, streets and sidewalks, but not including interior remodels nor routine maintenance or repair, such as roof or exterior surface replacement and repaving.

- (e) Site Design Measures shall mean any project design features that reduce stormwater pollution by decreasing or slowing stormwater runoff or intercepting the flow of runoff across a series of contiguous Impervious Surfaces.
- (f) Source Control Measures shall mean any project design features that aim to prevent stormwater pollution by eliminating or reducing the potential for contamination at the source of pollution.
- (g) Stormwater Treatment Measures shall mean any engineered system designed to remove pollutants from stormwater by simple gravity settling or particulate pollutants, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

10.16.030 **Permanent Stormwater Pollution Prevention Measures Required.**

- (a) All Development Projects shall include Permanent Stormwater Pollution Prevention Measure in order to reduce water quality impacts of stormwater runoff from the entire site for the life of the project.
- (b) All Significant Redevelopment Projects shall include Permanent Stormwater Pollution Prevention Measures in order to reduce water quality impacts of stormwater runoff for the life of the project.
 - 1. Significant Redevelopment Projects that result in an increase of, or replacement of, more than fifty (50) percent of the impervious surface of a previously existing development shall include Permanent Stormwater Pollution Prevention Measures sufficient to reduce water quality impacts of stormwater runoff from the entire site for the life of the project.
 - 2. Significant Redevelopment Projects that result in an increase of, or replacement of, fifty (50) percent or less of the impervious surface of a previously existing development shall include Permanent Stormwater Pollution Prevention Measures sufficient to reduce water quality impacts of stormwater runoff from the increased or replaced portions of the site for the life of the project.
- (c) Stormwater Treatment Measures proposed as part of a project permanent Stormwater Pollution Prevention Measures should be designed in accordance with the following hydraulic sizing criteria to treat stormwater runoff.
 - 1. Volume Hydraulic Design Basis. Stormwater Treatment Measures whose primary mode of action depends on volume capacity, such as detention/retention units or infiltration structures, shall be designed to treat stormwater runoff equal to:

- i. The maximized storm water quality capture volume for the area, based on historical rainfall records, determined using the formula and volume capture coefficients set forth in Urban Runoff Quality Management WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87 (1998), pages 175-178 (e.g. approximately the 85th percentile 24-hour storm runoff event); or
 - ii. The volume of annual runoff required to achieve 80 percent or more capture, determined in accordance with the methodology set forth in the California Stormwater Best management Practices handbook for New development and Redevelopment (2003), using local rainfall data.
- 2. Flow Hydraulic Design Basis. Stormwater Treatment Measures whose primary mode of action depends on flow capacity, such as swales, sand filters, or wetlands, shall be sized to treat:
 - i. 10 percent of the 50-year peak flow rate; or
 - ii. The flow of runoff produced by a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the applicable area, based on historical records of hourly rainfall depths; or
 - iii. The flow of runoff resulting from a rain event equal to at least 0.2 inches per hour intensity.
- (d) All plans and construction are subject to the inspection and approval by the City Engineer.
- (e) No final building or occupancy permit shall be issued without the written certification of the City Engineer that the requirements of this chapter have been satisfied. Such certification shall be in the form prescribed by the City Engineer and shall not be issued with payment of all applicable fees, which may be imposed for administration of this chapter.

10.16.040 **Inspection and Maintenance.**

- (a) The property owner(s), its administrators, successors, or any other persons, including any homeowners association, shall take all necessary actions to ensure that the Permanent Stormwater Pollution Prevention Measures are properly maintained so that they continue to operate as originally designed and approved. The maintenance of the control measures shall be in accordance with the terms and conditions of a maintenance agreement and shall in the form of a covenant running with the land, environmental mitigation measures, a use permit, enforceable conditions of approval, or other legal agreement. The agreement shall provide access to the extent allowable by law for representatives or agents of city for the purposes of verification of proper operation and maintenance of the specific PSPPM. The agreement shall be recorded in the office of the County Recorder, shall remain in force until ownership of the developed property has been transferred, and upon transfer, and shall be binding on the new owner(s).

- (b) Any property owner that has been required by this chapter to construct or install and maintain Permanent Stormwater Pollution Prevention Measures shall upon transferring ownership of such property provide the new owners with a current copy of this chapter, and shall inform the new owners in writing of their obligation to properly operate and maintain such PSPPM.
- (c) It shall be unlawful to alter, modify or change any components of the Permanent Stormwater Pollution Prevention Measures with first obtaining the written certification of the city engineer that the requirements of this chapter have been satisfied.

10.16.050 **Monitoring and Reporting.**

- (a) As a condition of approval, the city engineer may require the owner of a Development Project or Significant Redevelopment Project, to establish a self-monitoring and reporting program to ensure all PSPPM are in compliance with the provisions of this chapter. The self-monitoring report must be in accordance with the guidelines published by the Public Works Department.
- (b) The city engineer, or his or her authorized representatives, may conduct all inspection, surveillance, and monitoring procedures necessary to assure compliance with applicable sections of this chapter or with state regulations.
- (c) Representatives of the city engineer shall be authorized to enter, without unreasonable delay, any premises of any project subject to the requirements of this chapter to carry out inspections and monitoring to assure compliance with this chapter and applicable state of California regulations. Records shall be available to city personnel for inspection and copying.
- (d) In addition to any other remedy available to the city, city inspectors may issue compliance directives at the time of the inspection to require the owner to implement actions that will correct violations of this chapter.

10.16.060 **Enforcement and Penalties.**

- (a) As provided in Chapter 1.20 of Title 1 of this code, violations of the provisions of this title shall be subject to criminal penalties. The following designated employee positions may enforce the provision of this chapter by the issuance of citations. Persons employed in such position are authorized to exercise the authority provided in Penal Code Section 836.5 and are authorized to issue citations for violations of this chapter. The designated employee positions are city engineer, assistant public works director, associate civil engineer, code enforcement officer, chief building official, and building inspector.

(b) Enforcement – Judicial civil penalties

Any person who intentionally or negligently violates any provision of this chapter or any provision of any certificate issued pursuant to this chapter shall be civilly liable to the city in a sum of not to exceed twenty-five thousand dollars per day for each day in which such violation occurs. The city may petition the Superior Court pursuant to the Government Code Section 54740 to impose, assess, and recover such sums. The remedy provided in this section is cumulative and not exclusive, and shall be in addition to the penalty provision of Chapter 1.20 of this code and all other remedies available to the city under state and federal law.

(c) Enforcement – Administrative civil penalties.

1. Complaint. The city engineer may serve an administration complaint on any person who has violated any provision of this chapter. The complaint shall state:

- i. The act or failure that constitutes the violation;
- ii. The provisions of law authorizing the civil liability to be imposed; and
- iii. The proposed civil penalty.

The complaint shall be served by personal delivery or certified mail on the person subject to the requirements that the city engineer alleges were violated, and shall inform the person served that a hearing on the complaint shall be conducted within sixty days after service, unless the person charged with the violation waives his or her right to a hearing.

2. Hearing. Unless the person charged with the violation(s) waives his or her right to a hearing, the city manager or designee shall conduct a hearing within sixty days. If the hearing officer finds that the person has caused a violation, he or she may assess administrative penalties against the person. In determining the amount of the civil penalty, the hearing officer may take into consideration all relevant circumstances, including, but not limited to, the extent of the harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, attempted or taken by the discharger. Civil penalties that may be imposed are as follows:

- i. An amount not to exceed two thousand dollars per day for failing or refusing to furnish technical or monitoring reports
- ii. An amount not to exceed three thousand dollars per day for failing or refusing to comply in a timely fashion with any compliance schedule established by the city;

- iii. An amount not to exceed five thousand dollars per day of violation for discharges in violation of any Permanent Stormwater Pollution Prevention Measure certification, permit condition or requirement issued by the city.
3. Appeal. Any person against whom the hearing officer assesses penalties may appeal the decision of the hearing officer within thirty days of notice of the decision. The city council may hear the appeal or deny review of the case. If the city council decides to hear the appeal, it shall conduct the appeal in accordance with procedures established by the council. The decision of the city council shall be in writing and shall be final. All civil penalties imposed in accordance with this section shall be payable within thirty days of the decision of the hearing officer; provided, that if the decision is appealed, all penalties shall be payable within thirty day after the city council decision on the appeal.
4. Lien. The amount of any civil penalties imposed under this section, which have remained delinquent for a period of sixty days, shall constitute a lien against the real property for the discharger from which the violation occurred resulting in imposition of the penalty. The city engineer shall cause the amount of uncollected penalty to be recorded with the county recorder, in accordance with section 54740.5 of the California Government Code, as the same from time to time may be amended.

(d) Enforcement - Notice of noncompliance.

1. Unless the city engineer finds that the severity of the violation warrants immediate action or certificate revocation or suspension, he or she shall issue a notice of non compliance which:
 - i. Enumerates the violations found; and
 - ii. Orders compliance by a date certain.If the violations are not abated in the time period identified further action may be taken by the city engineer, including, but not limited to suspension, revocation or modification of the certificate.
2. Subject to the following limitations, and in addition to the provisions of subsection (a), the city engineer may require a discharger that has violated any discharge limits contained in this chapter to install a temporary system for the capture, testing and release of stormwater.”

SECTION 3. The City Engineer shall administer and implement the provisions of this ordinance.

SECTION 4. Publication. This ordinance shall be published as provided in Government Code section 36933.

SECTION 5. This ordinance is exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code (California Environmental Quality Act (CEQA)) pursuant to the State CEQA Guidelines Section 15308 as an action that assures the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

SECTION 6. Effective Date: This ordinance shall be effective on the thirty-first day after the date of its adoption.

The above and foregoing ordinance was duly and properly introduced at the regular meeting of the Los Altos City Council held on August 12, 2003, and was thereafter, at a regular meeting of the Los Altos City Council held on September 9, 2003 duly passed and adopted by the following roll call vote:

AYES: MOSS, LA POLL, BECKER, LEAR, CASTO

NOES: NONE

ABSENT: NONE



Mayor Kris Casto

ATTEST:



Susan Kitchens, City Clerk